

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**In re:**

**HEALTH DIAGNOSTIC  
LABORATORY, INC., et al.,**

**Debtors.<sup>1</sup>**

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**Case No. 15-32919 (KRH)  
Chapter 11**

**MOTION OF THE LIQUIDATING TRUSTEE FOR AN  
EXPEDITED HEARING AND TO SHORTEN THE NOTICE PERIOD  
ON THE MOTION OF THE LIQUIDATING TRUSTEE FOR ORDER (I)  
AUTHORIZING THE TRANSFER OF DEBTORS' PATIENT RECORDS TO  
METALQUEST, INC. AND (II) APPROVING THE PROPOSED AGREEMENT  
BETWEEN THE LIQUIDATING TRUSTEE AND METALQUEST**

Richard T. Arrowsmith, Liquidating Trustee (the "Liquidating Trustee") of the HDL Liquidating Trust (the "Trust"), by and through his undersigned counsel, hereby moves (the "Motion") the Court for the entry of an Order pursuant to section 105 of Title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"), Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Rules 9013-1(N) and (O) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Eastern District of Virginia (the "Local Bankruptcy Rules"), and the *Order Establishing Certain Post-Confirmation Notice, Case*

<sup>1</sup> The Debtors along with the last four digits of their federal tax identification number, are Health Diagnostic Laboratory, Inc. (0119), Central Medical Laboratory, LLC (2728), and Integrated Health Leaders, LLC (2434) (referred to herein collectively as "HDL").

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*Counsel for Richard Arrowsmith, Liquidating  
Trustee of the HDL Liquidating Trust*

*Management and Administrative Procedures* [Docket No. 1261] (the “Case Management Order”) setting an expedited hearing on May 23, 2024, at 11:00 a.m. and shortening the notice period on the *Motion of the Liquidating Trustee for Order Authorizing the Transfer of Debtors’ Patient Records to MetalQuest, Inc. and (II) Approving the Proposed Agreement Between the Liquidating Trustee and MetalQuest* (the “Record Transfer Motion”),<sup>2</sup> and deeming the Liquidating Trustee’s notice of the Motion and the Record Transfer Motion as set forth herein to be adequate and appropriate under the circumstances. In support of the Motion, the Trustee respectfully states the following:

#### **JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§1408 and 1409.

2. The statutory bases for the relief requested herein are Bankruptcy Code Section 105(a) and Bankruptcy Rule 9006(c).

#### **BACKGROUND AND FACTS**

3. On June 7, 2015, Health Diagnostic Laboratory, Inc., Central Medical Laboratory, LLC, and Integrated Health Leaders, LLC (the “Debtors”) filed with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the “Bankruptcy Court”), voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”), commencing the jointly administered Chapter 11 cases, styled *In re: Health Diagnostic Laboratory, Inc., et. al.*, bearing case number 15-32919-KRH (the “Chapter 11 Cases”).

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<sup>2</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in the Record Transfer Motion.

4. On May 12, 2016, the Bankruptcy Court entered its *Order Confirming the Debtors' Second Amended Plan of Liquidation* [Docket No. 1095] (the "Confirmed Plan").

5. The Trustee and the Dent Parties, with the assistance of the Honorable Frank J. Santoro, came to terms on a *Settlement Agreement and Mutual Release* (the "Settlement Agreement") attached as Exhibit A to the Order Approving Settlement Agreement. The Settlement Agreement with Dent recently went into effect.

6. The Liquidating Trustee has no other Chapter 5 causes of action to bring on behalf of the Trust.

7. The Liquidating Trustee contracted with three vendors to assist in the storage of electronic data and hard copies of documents. The two vendors with whom the Liquidating Trustee contracted to store the electronic data are in the process of being shut down. The last invoice from each of these two vendors is anticipated to be for the month of May 2024.

8. Iron Mountain, Inc. ("Iron Mountain") currently stores over 6,000 boxes of hard copy records for which they charge approximately \$12,000 per month.

9. The Liquidating Trustee desires to close down this case as soon as reasonably practicable to maximize value for the benefit of creditors.

**RELIEF REQUESTED**

10. By this Motion, the Trustee requests entry of an order, substantially in the form of the order attached hereto as Exhibit A (the "Order"), pursuant to section 105(a) of the Bankruptcy Code and Rule 9006(c) of the Bankruptcy Rules: (i) deeming the *Notice of (A) Motion for Expedited Hearing and to Shorten the Notice Period on the Liquidating Trustee's Motion and (B) Motion of the Liquidating Trustee for Order Authorizing the Transfer of Debtors' Patient Records to MetalQuest, Inc. and (II) Approving the Proposed Agreement Between the Liquidating Trustee*

*and MetalQuest*, attached as **Exhibit 1** to the Order (the “Notice”), to be adequate and appropriate notice under the circumstances; and (ii) setting an expedited hearing on shortened notice on the Record Transfer Motion for May 23, 2024, at 11:00 a.m.

**BASIS FOR RELIEF**

11. Local Bankruptcy Rule 9013-1 allows the setting of a hearing on an expedited basis as requested herein. Attached hereto as **Exhibit B** is the certification required under Local Rule 9013-1(N).

12. Bankruptcy Code Section 105(a) provides this Court with the power to set an expedited hearing on the Record Transfer Motion. Section 105(a) states that a Bankruptcy Court “may issue any order, process, or judgement that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code.]” 11 U.S.C. §105(a).

13. Under Bankruptcy Rule 9006(c), “the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c)(1).

14. An expedited hearing on the Record Transfer Motion is appropriate under the circumstances because the Liquidating Trustee desires to close this case down as soon as reasonably practicable to maximize value for the benefit of the estate. Resolution of the Records being stored is a necessary part thereof. Timing is appropriate to transfer the Records because no other Chapter 5 causes of action remain, the Settlement Agreement has been signed by Dent, and the contracts for the two vendors storing electronic data are in the process of being terminated.

15. The Liquidating Trustee desires to end the contract with Iron Mountain in order to stop paying monthly storage fees and close down the estate. As laid out in the Record Transfer Motion, the Liquidating Trustee attests that the Agreement with MetalQuest is fair and reasonable and will provide for both an expeditious winding down of the affairs of the estate, protection of

the Records, and compliance with the Applicable Medical Record Laws. As a result, it is necessary and appropriate for the Court to shorten the notice period and allow the Record Transfer Motion to be heard on the next regularly scheduled omnibus hearing date, May 23, 2024, at 11:00 a.m.

**NOTICE**

16. Notice of this Motion has been provided in accordance with the Case Management Order. The Liquidating Trustee submits that no other or further notice need be provided.

**NO PREVIOUS REQUEST**

17. No previous request for the relief sought herein has been made by the Liquidating Trustee to this or any other Court.

**WHEREFORE**, the Liquidating Trustee respectfully requests that the Court grant the relief requested herein and such other and further relief that the Court deems just and proper.

Dated: May 16, 2024

Respectfully submitted,

/s/ Brittany B. Falabella

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*Counsel for Richard Arrowsmith, Liquidating  
Trustee of the HDL Liquidating Trust*

**EXHIBIT A**

**[Proposed Order]**

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

<hr/>	)	
<b>In re:</b>	)	
	)	<b>Case No. 15-32919 (KRH)</b>
<b>HEALTH DIAGNOSTIC</b>	)	<b>Chapter 11</b>
<b>LABORATORY, INC., et al.,</b>	)	
	)	
<b>Debtors.<sup>3</sup></b>	)	
<hr/>	)	

**ORDER SETTING AN EXPEDITED HEARING AND RELATED RELIEF**

Upon the motion (the “Motion”) of Richard T. Arrowsmith, Liquidating Trustee (the “Liquidating Trustee”) of the HDL Liquidating Trust (the “Trust”), by and through his undersigned counsel, pursuant to section 105(a) of the Bankruptcy Code, Rule 9006(c) of the Bankruptcy Rules, Rules 9013-1(N) and (O) of the Local Bankruptcy Rules, and the Case Management Order (i) deeming the *Notice of (A) Motion for Expedited Hearing and to Shorten the Notice Period on the Liquidating Trustee’s Motion and (B) Motion of the Liquidating Trustee for Order Authorizing the Transfer of Debtors’ Patient Records to MetalQuest, Inc. and (II) Approving the Proposed Agreement Between the Liquidating Trustee*, attached hereto as **Exhibit 1** (the “**Notice**”), to be adequate and appropriate under the circumstances; and (ii) setting an expedited hearing on the

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<sup>3</sup> The Debtors along with the last four digits of their federal tax identification number, are Health Diagnostic Laboratory, Inc. (0119), Central Medical Laboratory, LLC (2728), and Integrated Health Leaders, LLC (2434) (referred to herein collectively as “HDL”).

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Record Transfers Motion for May 23, at 11:00 a.m.; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and requested relief being a core proceeding under 28 U.S.C. §157(b); and venue being proper before this Court pursuant to 28 U.S.C §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Trust, creditors, and parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion to establish just cause for the relief granted herein; and the Court having determined that immediate relief is appropriate; upon all of the proceedings before the Court and after due deliberation and sufficient cause appearing therefore,

**IT IS HEREBY ORDERED THAT:**

1. The relief requested in the Motion is hereby **GRANTED**;
2. A hearing will be held on May 23, 2024, at 11:00 a.m. (prevailing Eastern time) to hear and consider the Record Transfer Motion;
3. The Form of the Notice attached hereto as **Exhibit 1** is approved in all respects.
4. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry;
5. The Parties are authorized and empowered to take all actions necessary to implement the relief granted in this Order; and
6. This Court shall retain exclusive jurisdiction over any and all matters arising from and/or related to the implementation and/or interpretation of this Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States Bankruptcy Judge

Entered on Docket: \_\_\_\_\_

WE ASK FOR THIS:

/s/ Brittany B. Falabella

Robert S. Westermann (VSB No. 43294)  
Brittany B. Falabella (VSB No. 80131)  
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*Counsel for Richard Arrowsmith, Liquidating  
Trustee of the HDL Liquidating Trust*

**CERTIFICATION OF ENDORSEMENT UNDER  
LOCAL BANKRUPTCY RULE 9022-1(C)**

I hereby certify that the foregoing Order has been endorsed by and/or served on all necessary parties.

/s/ Brittany B. Falabella  
Counsel

**Exhibit 1**

**[Notice]**

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**In re:**

**HEALTH DIAGNOSTIC  
LABORATORY, INC., et al.,**

**Debtors.<sup>4</sup>**

**Case No. 15-32919 (KRH)  
Chapter 11**

**NOTICE OF (A) MOTION FOR EXPEDITED HEARING  
AND TO SHORTEN THE NOTICE PERIOD ON THE LIQUIDATING  
TRUSTEE'S MOTION AND (B) MOTION OF THE LIQUIDATING TRUSTEE  
FOR ORDER (I) AUTHORIZING THE TRANSFER OF DEBTORS' PATIENT  
RECORDS TO METALQUEST, INC. AND (II) APPROVING THE PROPOSED  
AGREEMENT BETWEEN THE LIQUIDATING TRUSTEE AND METALQUEST**

**PLEASE TAKE NOTICE** that on May 16, 2024, Richard T. Arrowsmith, in his capacity as Liquidating Trustee (the "Trustee") of the HDL Liquidating Trust (the "Trust"), by his undersigned counsel, filed with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the "Bankruptcy Court"): (A) *Motion of the Liquidating Trustee for an Expedited Hearing and to Shorten the Notice Period on the Motion of the Liquidating Trustee for Order Authorizing the Transfer of Debtors' Patient Records to MetalQuest, Inc. and (II) Approving the Proposed Agreement Between the Liquidating Trustee and MetalQuest*, and (B) *Motion of the Liquidating Trustee for Order Authorizing the Transfer of Debtors' Patient Records to MetalQuest, Inc. and (II) Approving the Proposed Agreement Between the Liquidating Trustee and MetalQuest* (the "**Motions**"), wherein the Trustee seeks an expedited hearing on his Record Transfer Motion<sup>5</sup>, which requests an order, inter alia, authorizing the Liquidating Trustee to transfer the Records to MetalQuest, Inc.

<sup>4</sup> The Debtors along with the last four digits of their federal tax identification number, are Health Diagnostic Laboratory, Inc. (0119), Central Medical Laboratory, LLC (2728), and Integrated Health Leaders, LLC (2434) (referred to herein collectively as "HDL").

<sup>5</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motions.

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**PLEASE TAKE FURTHER NOTICE** that copies of the Motions may be obtained at no charge at [www.americanlegal.com/HDL](http://www.americanlegal.com/HDL) or for a fee at <https://ecf.vaeb.uscourts.gov>.

**PLEASE TAKE FURTHER NOTICE** that a hearing will be held on **May 23, 2024, at 11:00 a.m.** (prevailing Eastern time) using the information below. True and complete copies of the Motions are served contemporaneously herewith.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney. (If you do not have an attorney, you may wish to consult one.)**

**PLEASE TAKE FURTHER NOTICE THAT** if you do not want the Court to grant the relief sought in the Motions, or if you want the Court to consider your views on the Motions, then by **May 22, 2024**, you or your attorney must:

1. File with the Court, either electronically or at the address shown below, a written response pursuant to Rule 9013(H) of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia and the Case Management Procedures. If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

Clerk of the Court  
United States Bankruptcy Court  
701 East Broad Street  
Richmond, VA 23219

2. You must also serve your written responses on the following counsel for the Trustee. You must serve the written responses early enough so that such counsel will received it on or before **May 22, 2024**:

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For the avoidance of doubt, electronic service in accordance with rule 5005-2 of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia and the Court's

Electronic Case Files Policy will be deemed valid and effective service under the Procedures Orders.

3. You must also attend a hearing on the Motions to be held before the Honorable Kevin R. Huennekens, United States Bankruptcy Judge, scheduled on **May 23, 2024, at 11:00 a.m. (Eastern Time)** in the United States Bankruptcy Court, 701 East Broad Street, Courtroom 5000, Richmond, Virginia 23219.

**If you or your attorney do not take these steps, the Court may deem any opposition waived, treat the Motions as conceded, and enter appropriate orders granting the requested relief without further notice or hearing.**

Dated: May 16, 2024

Respectfully submitted,

/s/ Brittany B. Falabella

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*Counsel for Richard Arrowsmith, Liquidating  
Trustee of the HDL Liquidating Trust*

**EXHIBIT B**

**[Certification of Counsel]**

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

<hr/>	)	
<b>In re:</b>	)	
	)	<b>Case No. 15-32919 (KRH)</b>
<b>HEALTH DIAGNOSTIC</b>	)	<b>Chapter 11</b>
<b>LABORATORY, INC., et al.,</b>	)	
	)	
<b>Debtors.<sup>6</sup></b>	)	
<hr/>	)	

**CERTIFICATION PURSUANT TO LOCAL RULE 9013-1 (N)**

Richard T. Arrowsmith, Liquidating Trustee (the “Liquidating Trustee”) of the HDL Liquidating Trust (the “Trust”), by and through his undersigned counsel, hereby certifies, pursuant to Local Rule of Bankruptcy Procedure 9013-1(N), the following with respect to the *Motion of the Liquidating Trustee for Order Authorizing the Transfer of Debtors’ Patient Records to MetalQuest, Inc. and (II) Approving the Proposed Agreement Between the Liquidating Trustee and MetalQuest*:

- (i) The Liquidating Trustee has carefully examined the matter and concluded that there is a true need for an expedited hearing;
- (ii) The Liquidating Trustee has not created the emergency through any lack of due diligence; and

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<sup>6</sup> The Debtors along with the last four digits of their federal tax identification number, are Health Diagnostic Laboratory, Inc. (0119), Central Medical Laboratory, LLC (2728), and Integrated Health Leaders, LLC (2434) (referred to herein collectively as “HDL”).

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- (iii) The Liquidating Trustee has made a *bona fide* effort to resolve the matter without a hearing.

Dated: May 16, 2024

Respectfully submitted,

/s/ Brittany B. Falabella

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Trustee of the HDL Liquidating Trust*